

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CASE NO. 03-CR-10356-MLW

UNITED STATES

VS.

**FREDERICK A. SIMONE,
a/k/a FREDDY, a/k/a
THE NEIGHBOR,**

**VINCENT C. GIOCCHINI,
a/k/a DEE DEE; and**

**FRANCIS WHITE, a/k/a
THE WHITE-HAIRED GUY**

**AFFIDAVIT IN SUPPORT OF
MOTION TO SUPPRESS PHYSICAL EVIDENCE NO. 1
SEIZED PURSUANT TO A SEARCH WARRANT**

I, Kevin J. Reddington, Esq., being first duly sworn, depose and say that;

- 1.) I am an attorney duly licensed in the Commonwealth of Massachusetts and I am a member of the Federal District Court Bar of the District of Massachusetts.
- 2.) I have received discovery from the government in the course of my representation of Mr. Frederick Simone and I have reviewed the same.
- 3.) I do believe and aver that the search warrant was issued by a magistrate upon consideration of information that was derived from previous electronic wiretap surveillance that was illegal, unreasonable and violative of the defendant's rights secured him under the Fourth Amendment to the United States Constitution as well as Title III.
- 4.) I do believe and aver that there was insufficient evidence within the affidavit submitted in support of the application for said search warrant to allow a finding of probable cause.

- 5.) I do aver that there was insufficient evidence to justify an issuance of said warrant authorizing the forceable breaking and entering into the defendant's premises for the placement of a "bug" therein to listen and record all conversations occurring within its range of effective intercept.
- 6.) I further aver that it is clear that a good faith effort to utilize all normal investigative techniques did not occur and there was insufficient justification for the increased electronic surveillance sought thereby and there was no valid showing of "necessity" all as set forth in the Motion to Suppress No. 3, the memorandum of law and Motion for Franks Hearing with supporting affidavit.
- 7.) I therefore request that this Court entertain a hearing on the issues set forth herein and order suppression all as requested in the motions.
- 8.) I have personally spoken to counsel for co-defendants Vincent Giocchini and Francis White and they assert standing in each of these motions and do hereby join in the representations of counsel set forth in the motions, affidavits and memoranda of law set forth in these motions.

Signed under the pains and penalties of perjury this 15th day of September, 2004.

"s/Kevin J. Reddington"